

**Tenth Circuit History:
The Honorable H. Dale Cook
U.S. District Courts for the Northern, Eastern, & Western Districts of Oklahoma⁺**

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Until middle school, he only knew himself as “Dale,” because that is what everyone else knew him as. But “Harold,” he discovered, was his first given name, just like his father, who was the chairman of the Guthrie Cotton and Oil Company in Guthrie, Oklahoma, where Dale grew up in a two-story house with his parents and his pet bulldog.

Dale’s acumen for success and fortuity showed itself early when, in high school, he served four years in the Junior Reserve Officer Training Corps—he was still in high school when Japan attacked Pearl Harbor, so knew he’d soon be in the military. But the JROTC program emphasized the need for American officers to be educated, so Dale enrolled in college summer school and the regular ROTC program, garnering as much education as he could before military service.

Dale Cook shortly became Lieutenant Cook of the U.S. Army Air Corps. After he got his wings, he and the other new pilots prepared for advanced flying school, which required the young officers to rank, one through three, their preferred flying assignments—that is, fighters, bombers, and the like. Lt. Cook, showing the same craftiness that he would as a lawyer, determined his rankings as follows: “Fighter, fighter, fighter.” He got fighters, but while awaiting orders, his superior officer unexpectedly chose six men to become instructors. Though he protested—and was told, “You take orders and don’t ask questions”—Lt. Cook was one of the chosen. Lt. Cook initially instructed Chinese and American pilots in advanced single engine flight, but moved on to train pilots during their transition from trainer aircraft to the fighters that they would fly in combat. Perhaps Lt. Cook’s most challenging student was a Colonel—outranking him by four levels—who had flown B-17 bombers in Europe and wanted to learn to fly fighters. The Colonel had some difficulty landing the fighters, whose center of gravity was far different than the “flying fortress” bombers he had flown. Lt. Cook would not certify the Colonel as quickly as the Colonel wanted, so the Colonel went over Lt. Cook’s head and obtained certification. The next time out, the Colonel ground looped the plane—think rolling around as you land. Obviously shaken, the Colonel went to Cook and asked him if he would train him Cook’s way, to which Cook readily agreed.

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The day after his discharge from the army, Cook returned to the University of Oklahoma in Norman. Like his father, Cook intended to operate a business, so he enrolled in that school of the university. But during his business studies, Cook thought it would be beneficial to know a bit about the law, so he enrolled in the law school for a semester. He was so thrilled with the law that he took a second, a third, and so on, until he obtained his law degree.

It was during law school that Cook received a fateful phone call from a man trying to enlist his help campaigning for Bob Kerr, who was running for one of Oklahoma's U.S. Senate seats. Cook wasn't sure he agreed with Kerr's political positions, but the caller informed Cook in no uncertain terms that if he expected to be a lawyer in Oklahoma, he had to be a Democrat. Perturbed by the idea that justice should depend on party, Cook responded to an advertisement of a meeting of the College Republicans and went to listen. He sat in the back of the room, which contained about 15 people—Judge Cook joked that there couldn't have been many more Republicans in Oklahoma at the time, period—and by the end of the evening, he was the President of the College Republicans, which he said “shows how desperate they were.”

As Cook approached the end of law school, he still thought he would pursue a career in business and would therefore forgo the bar exam. But on reflection (and a mere 10 days before the exam), he thought it was silly to complete law school and not take the bar, so he obtained a copy of Clark's law summaries, read up, and passed the bar. He was now Counselor Cook.

Now, if you want to have a good start in the law, it's hard to do better than Mr. Cook—all this newly-minted attorney did was to run for the elected office of chief prosecuting attorney in his county, as a member of the minority political party, and win. Cook recognized the opportunity, and he did not hire any assistants. Every case was his alone. He remained in that office 3 years, winning re-election once. He did not run for a third term because as he told his constituents, “anyone who ran for a third term should be defeated.”

President Eisenhower's election in 1952 was a boon for the handful of Republicans in Oklahoma, but the party was so small in Oklahoma, there was a lack of unanimity on who should receive political appointments, among which were the U.S. Attorneys for the state's federal judicial districts. Two hopefuls contacted Cook and asked for his support, but he declined when the men promised him an assistantship in exchange. Ultimately, the judges of the Western District appointed Fred Mock, who contacted Cook and hired him to be his First Assistant U.S. Attorney.

In the 1950s, federal criminal law was much less developed than its modern counterpart and mainly dealt with Dryer Act violations—interstate car theft. Much of AUSA Cook's work focused on federal condemnation of land for use in constructing military bases and in Federal Tort Claims Act cases resulting from a sonic boom in advance of an air show in Oklahoma City.

In 1958, Cook left the government for private practice, where general practice presented him with every kind of case. In his chambers with staff, Judge Cook frequently drew on the many anecdotes from these days, including blowing cigar-smoke rings during an opposing counsel's jury argument, defending the same blue-law violator by continually showing that what the man was peddling was truly essential to folks on Sundays, and winning an evidence argument with a judge by quoting the judge's own words from the textbook the judge wrote.

Public service called again in 1963 when Republican Governor-Elect Henry Bellman asked Dale Cook to become his legal counsel. Cook had no desire to do it and felt unprepared—he had no notion of capitol politics. After repeated entreaties, Cook agreed to serve for six months, until the Governor could find someone else. He stayed a little over three years. Cook's destiny on the bench was foreshadowed during his time with Governor Bellman when the Governor asked if he could do anything for Cook to thank him for his extraordinary service. Cook demurred that he didn't take the job with the idea of receiving any patronage, but when pressed whether there wasn't anything in the world that he wanted, Cook explained that he always felt strongly about the place of the federal judiciary. But both men knew there was no chance of that coming about because Governors have no part in the appointment process, and Bellman had no intention of continuing in politics after he left the Governorship.

Cook had a stint back in private practice, where he also got involved in banking, becoming Chairman and President of the Shepard Mall State Bank in Oklahoma City. It was short lived. A new call came in 1971, when Elliot Richardson, then the Secretary of Housing, Education, and Welfare asked Cook to come to Washington to be Director of the Bureau of Hearings & Appeals at the Social Security Administration. Though Cook thought it was a good idea to develop such a system, which would be an inexpensive way for people to litigate their disputes, he had no desire to lead it or to move to Washington. When pressed, Cook explained that if the Secretary wanted to pay for him to take a trip to Washington, that he would meet with the Secretary, but that the Secretary had to understand that he would not take the job. The Secretary agreed, Cook visited Washington, and Cook took the job. Cook agreed with the understanding that he wouldn't stay long. He stayed three and a half years.

During his time in Washington, Cook met up with an old college fraternity brother, who lived in the same neighborhood with U.S. Supreme Court Justices Byron "Whizzer" White and William H. Rehnquist. The three regularly played a kind of lawn

tennis game, but they three needed a fourth for doubles, and Cook was it. When Chief Justice Rehnquist died in 2005, stories in the press told of Rehnquist's habit of wagering on anything and everything. Judge Cook recounted the tale of the Chief Justice calling him for his thought on who would carry Oklahoma in the 1976 presidential election, President Ford or Governor Jimmy Carter—the Chief Justice obviously had a wager with someone.

In 1974, U.S. District Judge Luther Bohanon decided to assume senior status, leaving a vacancy in Oklahoma, which is one of the few states to have a “roving” judgeship—that is, a seat on the bench of each of the state's federal judicial districts. But Bohanon wouldn't formally notify the President until he knew who would replace him.

Governor Bellman—who had no intention of carrying on in politics—had in the interim been elected U.S. Senator from Oklahoma. As a senator, Bellman had a great deal of influence over nominations to district judgeships, and when he asked Judge Bohanon whether Dale Cook would be an acceptable successor, Bohanon agreed. Senator Bellman called Cook to talk over the possibility of the nomination. Cook, who had expressed an interest many years earlier, was now not so sure. He'd just been offered the opportunity to return to banking, with the assurance that he could practice law on the side. Senator Bellman told Cook to think it over that night. Cook called him at 7:30 am the following morning to say he would be honored to accept a nomination.

President Ford nominated Cook on December 2, Cook had his confirmation hearing on December 18, and on December 20, Cook received his commission as United States District Judge for the Northern, Eastern, and Western Districts of Oklahoma.

Judge Cook's career had been focused in Oklahoma City, and as a roving judge he could have his chambers anywhere. But there was interest in getting a second federal judge in Tulsa, so he agreed, pre-nomination, that he would have his chambers there. Judge Cook became Chief Judge of the Northern District in 1979 and it was during this time that he cast his eye on the federal building, two blocks from the U.S. Courthouse in downtown Tulsa. Judge Cook was 50 years old at his appointment and had two colleagues on the bench, James O. Ellison and Thomas R. Brett. Chief Judge Cook thought that some day the three, as senior judges, would need chambers and courtrooms. That notion led to years of restoration and renovation of the building, which now houses the district's senior judges and the district's U.S. Bankruptcy Court.

Among the highlights of a long judicial career, Judge Cook sat for many years on the Magistrates Committee of the Judicial Conference of the United States, sat numerous times by designation with the U.S. Court of Appeals for the Tenth Circuit, and traveled to judicial districts suffering case backlogs to sit as a visiting district judge.

But the best highlight of his judicial career was the time he spent on the trial bench. Court watchers recall the break-neck pace of Chief Judge Cook's docket, explaining that he would send one jury out to deliberate and bring a new jury in to start another trial. The current Chief Judge of the Northern District, Claire V. Eagan, first met Judge Cook in 1976, when she was a law clerk to Chief Judge Allen Barrow. At that time, Tulsa had just two resident federal judges. Eagan says she always found Judge Cook kind and approachable. But in 1978 when Eagan entered private practice, she saw the view from the bar. Chief Judge Eagan remembers Judge Cook as "the most impressive jurist one could appear before," because "he always knew more than the lawyers," and he had no time for gamesmanship—"he cut right through it." And Chief Judge Eagan makes a special point to highlight Judge Cook's support for women in the law, be it as law clerks, attorneys at the bar, and as judges.

U.S. Magistrate Judge Sam A. Joyner hails Judge Cook as "an anchor of the Northern District," describing his opinions as "always clear, very well researched, and right on." Judge Joyner points out that even after Judge Cook assumed senior status, he maintained a heavy criminal docket, so Joyner concluded that he didn't think there was any reason to talk about Judge Cook's age, "because he's ageless."

Then there are the lawyers. The U.S. Attorney's Office in Tulsa, whose attorneys appeared before Judge Cook frequently because of his large criminal docket are overwhelming in their praise. U.S. Attorney David E. O'Melia summed up Judge Cook's acumen as a trial judge by saying that in any given examination of a witness, Judge Cook always knew exactly where the examination was going and was "three questions ahead of the lawyer." Assistant U.S. Attorney Allen J. Litchfield echoed that sentiment, saying that it never ceased to amaze him when Judge Cook anticipated exactly what a witness would say or do on the stand and that Judge Cook could "analyze a complicated evidentiary issue in an instant from the bench." O'Melia also remarked on Judge Cook's occasional quick wit, recalling a hearing in which opposing counsel cited in support of his principal argument a state court case from Hawaii. O'Melia recounted that at the conclusion of the argument, Judge Cook leaned forward on the bench to ask the lawyer "do you have anything at least from the *continental* United States?"

Doug Horn, First Assistant U.S. Attorney for the Eastern District of Oklahoma, saw Judge Cook across two districts and in several positions. Horn offered pithy and high praise: "You can't meet a finer person or finer jurist in what we do." Horn recalled his first appearance before Judge Cook, when Judge Cook volunteered to help out with another judge's cases in the Eastern District. In that case, one defendant pled guilty to taking part in a robbery. Horn asked Judge Cook to sentence the defendant to probation, citing what the young man had done in the four years since the offense—he had graduated from the University of Oklahoma with honors, was working as a reporter for the Daily Oklahoman, he had married, and his wife was seven months pregnant. Because

of his conviction, he had already lost his job, and Horn argued to Judge Cook that no more punishment was required. Horn recalled that “he listened to what I had to say, and he didn’t know me from Adam.” Judge Cook sentenced the man to probation.

The best part of Judge Cook’s story is that he continued his labor of love on the bench until just a few months before he died on September 22, 2008. Asked what was the most important case on which he’d worked, he would answer, “The case I’m working on right now.” The memorial service for Judge Cook featured the entire federal judicial community in Tulsa—judges, marshals, attorneys, and probation officers, who listened to a host of speakers honor the man and the judge. Retired U.S. District Judge James O. Ellison summed things up well by addressing the gathering as an amicus, because, he said, he was a friend of the Court, and because the merits of the life of Dale Cook had already been submitted. There can be no doubt of the judgment.